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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/050,826	01/18/2002	Heinz-Christen Lorenzen	31512-177188	6939

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EXAMINER

WALLS, DIONNE A

ART UNIT PAPER NUMBER

1731

DATE MAILED: 03/14/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/050,826

Applicant(s)

LORENZEN ET AL.

Examiner

Dionne A. Walls

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-7,9,14-16,18 is/are rejected.
- 7) ☒ Claim(s) 8,10-13,17,19 and 20 is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 4.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Drawings

This Application lacks formal drawings. The informal drawings filed in this application are acceptable for examination purposes; however, if the application is allowed, Applicant will be required to submit new formal drawings.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-2, 5-6, 9, 14-15, and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Ffoulkes (US. Pat. No. 3,138,163).

Ffoulkes discloses all that is recited in the claims (Note: "screen 74" corresponds to the claimed "means for segregating"; "carding drum 86" corresponds to the claimed "means for advancing an elongated stream of segregated long particles along a ...path"; "collecting belt 91" and "the 'shorts' are introduced ... continuously into the general flow of shreds of good length" corresponds to the claimed "means for admitting into...elongated stream/path...short particles in a heterogeneous distribution/ ... conveyor"; "reserve of shorts...provided in reservoir 84" corresponds to the claimed "means for collecting/gathering short particles" ; "small size tobacco shreds or 'shorts' are introduced ...intermittently into the tobacco braid" corresponds to the claimed "introducing into the path...a series of spaced apart batches"; "metering drum 96"

corresponds to the claimed "means for transferring metered quantities of short particles from said collecting means to said conveyor"; see cols. 1,4-5; and fig. 4)

3. Claims 1,5, and 9 are rejected under 35 U.S.C. 102(b) as being anticipated by Lorenzen et al (US. Pat. No. 4,616,663).

Lorenzen discloses all that is recited in the claims (Note: "sieve 6" corresponds to the claimed "means for segregating"; "rotary conveyor 29" corresponds to the claimed "means for advancing an elongated stream of segregated long particles along a ...path"; "conveyor 8" and "means for admitting into...elongated stream/path...short particles in a heterogeneous distribution/ "conveyor"; see cols. 2, 4-6; and fig. 1).

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7, 9, 14-16, 18 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ffoulkes (US. Pat. No. 3,138, 163).

Regarding claim 3, while there may be no articulation, in Ffoulkes, of confining the stream (of long tobacco particles) and the batches (of short tobacco particles) in a tubular wrapper, and severing the wrapper and the stream between successive batches, it follows that since Ffoulkes discloses a cigarette making machine that the process of making cigarettes in said machine would obviously include wrapping and severing steps since these are conventional steps in the processing of cigarettes.

Regarding claim 4, while there is no specific articulation in Ffoulkes that the batches of short particles are admitted substantially centrally of said stream, absent any indication to the contrary, and since Ffoulkes does state that the goal of the invention is to obtain uniformity of the cigarette tobacco rod, it follows that one having ordinary skill in the art would ensure that the short particles be delivered to the general flow of longer shreds in a manner that would allow said particles to be positioned centrally of the long particles.

Regarding claim 7, while Ffoulkes may not specifically state that the short tobacco particles are monitored and are introduced at a rate which is dependent upon the quantity of short particles in the mass, it does state that the short tobacco particles are directed "at a controlled rate" onto the tobacco collecting belt. This infers that there is some outside intervention to ensure uniform proportioning of the tobacco stream. It would have been obvious to one having ordinary skill in the art at the time of the invention to fabricate the cigarette machine such that the processing steps included monitoring the quantity of the "shorts" and delivering them at a rate which depends on quantity, to ensure uniformity in the tobacco rod of the finished product.

Allowable Subject Matter

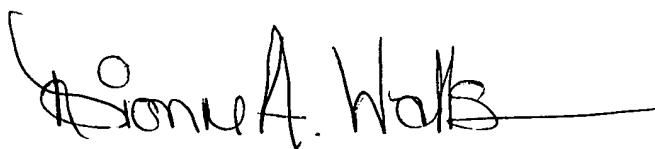
6. Claims 8, 10-13, 17 and 19-20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dionne A. Walls whose telephone number is (703) 305-0933. The examiner can normally be reached on Mon-Fri, 7AM - 4:30PM (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven P. Griffin can be reached on (703) 308-1164. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)308-0661.

A handwritten signature in black ink that reads "Dionne A. Walls". The signature is stylized with a large, looped initial "D" and a long horizontal line extending from the end of the name.

Dionne A. Walls
March 10, 2003